

AO 106 (Rev. 04/10) Application for a Search Warrant

FILED
 UNITED STATES DISTRICT COURT
 ALBUQUERQUE, NEW MEXICO

OCT 8 2019

MITCHELL R. ELFERS
 CLERK

UNITED STATES DISTRICT COURT

for the
 District of New Mexico

In the Matter of the Search of
 (Briefly describe the property to be searched
 or identify the person by name and address)

Red Nissan Titan truck bearing VIN
 1N6AA1E58JN543125

Case No. 19-MR-1236

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A.

located in the County of McKinley District of New Mexico, there is now concealed (identify the person or describe the property to be seized):

See Attachment B.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 USC §1153	Offenses Committed in Indian Country
18 USC §1112	Involuntary Manslaughter
NMSA § 66-8-113	Reckless Driving

The application is based on these facts:

See attached affidavit.

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Justin Tennyson
 Applicant's signature

Justin Tennyson, Special Agent, FBI
 Printed name and title

Sworn to telephonically and signed electronically.

Date: 10/08/2019

Steve Yarbrough
 Judge's signature

City and state: Albuquerque/Gallup, NM

Steven C. Yarbrough, U.S. Magistrate Judge
 Printed name and title

AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT

I, Justin Tennyson, being duly sworn, state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and have been so employed since July 2014. I am currently assigned to the Albuquerque Field Office, Gallup Resident Agency. My primary duties as a Special Agent with the FBI include investigating crimes occurring in Indian Country. I have gained experience in the conduct of such investigations through previous case investigations, formal training, and in consultation with law enforcement partners in local, state and federal law enforcement agencies. As a Federal Agent, I am authorized to investigate violations of the laws of the United States and have authority to execute arrest and search warrants issued under the authority of the United States.

2. This affidavit is based upon my personal knowledge, and upon information reported to me by other federal, state, and local law enforcement officers during the course of their official duties, all of whom I believe to be truthful and reliable. Throughout this affidavit, reference will be made to law enforcement officers. Law enforcement officers are those federal, state, and local law enforcement officers who have directly participated in this investigation, and with whom your affiant has had regular contact regarding this investigation.

3. Based on my training, experience, and the facts set forth in this affidavit, I believe there is probable cause that evidence of violations of 18 U.S.C § 1153 – Offenses Committed Within Indian Country, 18 U.S.C § 1112 – Involuntary Manslaughter, and NMSA § 66-8-113 – Reckless Driving will be found within the interior and exterior of a red Nissan Titan truck with Arizona license plate CKW0281, VIN 1N6AA1E58JN543125 involved in a fatal accident on August 30, 2019.

4. Because this affidavit is submitted for the limited purpose of securing authorization to search the vehicle described in Attachment A, I have not included each and every fact known to me concerning this investigation. This affidavit is intended to show that there is sufficient probable cause for the requested warrant.

PROBABLE CAUSE

5. On October 01, 2019, a Criminal Investigator (CI) with the Navajo Department of Law Enforcement notified the Gallup Resident Agency of the FBI of a double vehicle crash resulting in (2) fatalities that occurred at approximately 9:40 p.m. on August 30, 2019. The crash occurred on Navajo Route 12 at mile post 39.3 in Navajo, New Mexico. Both vehicles at the crash scene sustained front impact exterior body damage and were towed from the scene. The wreckage of vehicle parts and motor fluid was in the middle of Navajo Route 12 which caused the Navajo Police Department to immediately close it.

6. Upon arrival at the scene by Navajo Police Department officers, vehicle #1 (hereinafter VIC1) was identified as a dark color 2016 Chevrolet Cruze with Arizona license plate BTF0697, VIN 1G1PE5SB5G7229019 and was facing the west direction. The driver was identified as J.B., year of birth 1989, and the passenger was J.G., year of birth 1982. Both of the occupants in VIC1 were found seated and secured with seat belts but were deceased. The McKinley County Fire Rescue Department used extrication equipment to remove the deceased individuals from their vehicle. They were transported to Silver Creek Mortuary in Tse Bonito, New Mexico.

7. The majority of the crush impact on VIC1 was on the driver's side. The driver's door was halfway open but power equipment was necessary to completely open it. The front seat passenger door was locked and the passenger door window was shattered to gain entry through the

front passenger side. J.B. had a 12 ounce bottle of Twisted Hard Ice Tea alcoholic beverage tucked between her thighs. J.G. had a 12 ounce bottle of Voodoo Ranger IPA alcoholic beverage tucked between him and his seat belt. There were (2) unopened 12 ounce bottles of Voodoo Ranger IPA and (1) unopened bottle of Twisted Hard Ice Tea that were removed from the vehicle.

8. Vehicle #2 (hereinafter TARGET VEHICLE) was identified as a 2018 red Nissan Titan truck with Arizona plate CKW0281, VIN 1N6AA1E58JN543125. The driver of the TARGET VEHICLE was identified as A.C., year of birth 1962, and the passenger was his wife, A.C., year of birth 1965. Both of the occupants in the TARGET VEHICLE sustained injuries and were transported to the Fort Defiance Medical Center in Fort Defiance, Arizona. The TARGET VEHICLE was located on the southbound shoulder of Navajo Route 12 and was facing the north direction.

9. Approximately (40) minutes prior to the collision, A.C. had met with a Navajo Police Officer at the Navajo Pine Market to document a collision with mule deer on Route 134 in Crystal, New Mexico. The patrol officer that met with A.C. stated that both of A.C.'s headlights were in operable condition after this accident.

10. A.C. gave a verbal statement to law enforcement at the Fort Defiance hospital. A.C. stated that he was driving southbound heading back home to Fort Defiance, Arizona. A.C. noticed (2) vehicles traveling northbound toward Navajo, New Mexico and just as he was about to pass by the first northbound vehicle, the second northbound vehicle suddenly started to pass the first northbound vehicle. A.C. steered to the right to avoid a head-on collision. This all happened in a matter of seconds with little or no reaction time and he collided head-on with the vehicle. He was dazed and shocked and eventually checked on his wife who was screaming in pain. A.C. then

went over to the other vehicle but the occupants did not have any response. A.C. then returned back to his wife and stayed with her as help arrived.

11. Navajo Route 12 south of Navajo, New Mexico travels to Fort Defiance, Arizona. Navajo Route 12 is constructed of paved asphalt, hard shoulders and road markings (white fog line and yellow center lines). The posted speed limit on Navajo Route 12 is 55 miles per hour (MPH). There is a slight right curve while traveling southbound where the collision occurred. The weather condition was clear and dry. The time of day was during night time hours with no street lights. It was a passing zone for both southbound and northbound traffic.

12. The Navajo Police Department concluded that that the point of impact was in the southbound lane. The collision occurred in a passing zone for both southbound and northbound traffic. No witnesses were interviewed regarding the collision as the other northbound vehicle that was being passed did not stop and provide assistance. There were visible skid and yaw marks on the southbound shoulder indicating evasive actions were taken by the driver of the TARGET VEHICLE. There were no visible skid or yaw marks present from VIC1. VIC1 and the TARGET VEHICLE collided head-on in the southbound lane. The impact force of both vehicles caused the vehicles to separate in a different direction. VIC1 spun outwards onto the northbound dirt shoulder coming to a final resting position facing west. The TARGET VEHICLE spun outwards partially onto the southbound dirt shoulder and back onto the southbound lane coming to a final resting position facing north.

13. Sergeant Lauren Milligan is the Commander of the New Mexico State Police Crash Reconstruction Unit. Sergeant Milligan advised that the TARGET VEHICLE should be equipped with an Event Data Recorder that could have recorded information such as pre-impact speed,

throttle position, brake usage, seat belt usage, and engine RPM prior to impact. Sergeant Milligan advised that he has equipment to gain access to this device and data stored within.

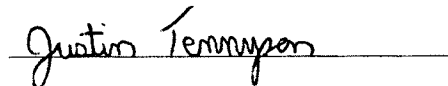
14. The crash site was located within the Red Lake Chapter of the Navajo Nation, Bureau of Indian Affairs Land Management District Number 18, Fort Defiance Navajo Agency, McKinley County, State of New Mexico and was determined to be on Navajo Nation Trust Land.

15. The (4) individuals involved in the collision are enrolled members of the Navajo Nation.

CONCLUSION

16. Based on the facts contained within this affidavit, I believe probable cause exists to search the red 2018 Nissan Titan truck with Arizona plate CKW0281, VIN 1N6AA1E58JN543125 (see Attachment B).

17. Supervisory Assistant United States Attorney Kyle T. Nayback reviewed and approved this affidavit in support of an application for a search warrant.



Justin Tennyson
Special Agent
Federal Bureau of Investigation

Subscribed and sworn telephonically this __8th__ day of October 2019



Steven C. Yarbrough
United States Magistrate Judge

ATTACHMENT A

Property to Be Searched

The interior and exterior of a red Nissan Titan bearing V.I.N. 1N6AA1E58JN543125, currently in storage at Manuelito Towing in Tse Bonito, NM.

ATTACHMENT B

Particular Things to be Seized

As a result of this investigation, there is probable cause to believe that contained within the interior and/or exterior of the red Nissan Titan bearing V.I.N. 1N6AA1E58JN543125 there is evidence related to 18 U.S.C § 1153 – Offenses Committed Within Indian Country, and 18 U.S.C § 1112 – Involuntary Manslaughter, and NMSA § 66-8-113 – Reckless Driving. The search warrant authorized the collection of the following:

1. Alcoholic beverage(s) and/or alcoholic beverage container(s) containing any amount of beverage whether open or closed. Any package(s) apparently used to advertise, store and/or transport alcoholic beverage(s). Any document(s) recorded on any media which indicates and/or tends to indicate the advertisement, sale, purchase, use, consumption, transfer and/or storage of alcoholic beverage(s).
2. Item(s) which establish or tend to establish possession, use, occupancy, presence and/or the right to possession of the vehicle to be searched.
3. Documentation of the herein-described premises, vehicle(s), person(s) and/or the herein-described item(s), to be seized, by means of measurement, photography, and/or videography.
4. Any collision and/or crash data device(s) including data stored on/within the internal and/or external memory of the device(s).